

REMARKS

Favorable reconsideration of this application in light of the preceding amendments and the following discussion is respectfully requested.

Rejections under 35 U.S.C. § 101

Claim 4 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants submit that this rejection is now moot given the amendment to claim 4. Claim 23 has also been amended for similar reasons.

Rejections under 35 U.S.C. § 102

Claims 1, 3-4, 8-12, 16-20, 22-23, 27-29, 33-37, 41-49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bonta, U.S. Pat. No. 6,014,565 (“Bonta”). The Applicants traverse these rejections for at least the following reasons.

The Applicants submit that Bonta fails to disclose utilizing a measured real time traffic flow criteria for setting a number of base stations as recited in independent claims 1, 11, 16, 17, 20, 28, 33, 34, 37, 41, 43 and 46 or for supporting a hand-off as recited in independent claims 19 and 36. Instead, Bonta uses signal quality metrics based on *simulations* for supporting hand-offs (see column 4, line 25 and column 10, line 21). Because Bonta’s signal quality metrics are based on simulations they are not real-time criteria.

Accordingly, Applicants submit that Bonta cannot anticipate independent claims 1, 11, 16, 17, 19, 20, 28, 33, 34, 36, 37, 41, 43, 44 and 46 and their associated dependent claims 3, 8-10, 12, 18, 22, 27, 29, 35, 42, 45, 47-49 under § 102(b) because it does not disclose each and every element of these claims .

The Applicants, therefore, request allowance of claims 1, 3-4, 8-12, 16-20, 22-23, 27-29, 33-37, 41-49.

Rejections under 35 U.S.C. § 103

Claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bonta in view of Celedon et al., U.S. Pub. Pat. Appl. No. 2003/0190916 (“Celedon”). The Applicants traverse these rejections for at least the following reasons.

Applicants submit that claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40 are allowable at least because they each depend from one of independent claims 1, 11, 16, 17, 19, 20, 28, 33, 34, 36, 37, 41, 43, 44 and 46 which have been shown to be allowable over Bonta and because Celedon does make up for the deficiencies of Bonta.

The Applicants, therefore, request withdrawal of the rejections and allowance of claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections have been addressed and overcome, leaving the present application in condition for allowance. A notice to that effect is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge any underpayment or non-payment of any fees required under 37 C.F.R. §§ 1.16 or 1.17, or credit any overpayment of such fees, to Deposit Account No. 50-3777, including, in particular, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC

By: /John E. Curtin/
John E. Curtin, Reg. No. 37,602

P.O. Box 1995

Vienna, VA 22183

Tel.: (703) 266-3330